

1 MICHAEL A. JACOBS (CA SBN 111664)  
2 MJacobs@mofo.com  
3 ARTURO J. GONZÁLEZ (CA SBN 121490)  
AGonzalez@mofo.com  
3 MORRISON & FOERSTER LLP  
4 425 Market Street  
San Francisco, California 94105-2482  
Tel: 415.268.7000 / Fax: 415.268.7522

5 KAREN L. DUNN (*Pro Hac Vice*)  
kdunn@bsfllp.com  
6 HAMISH P.M. HUME (*Pro Hac Vice*)  
hhume@bsfllp.com  
7 BOIES SCHILLER FLEXNER LLP  
8 1401 New York Avenue, N.W.  
Washington DC 20005  
9 Tel: 202.237.2727 / Fax: 202.237.6131

10 WILLIAM CARMODY (*Pro Hac Vice*)  
bcarmody@susmangodfrey.com  
11 SHAWN RABIN (*Pro Hac Vice*)  
srabin@SusmanGodfrey.com  
12 SUSMAN GODFREY LLP  
13 1301 Avenue of the Americas, 32nd Floor  
New York, NY 10019-6023  
14 Tel: 212.336.8330 / Fax: 212.336.8340

15 Attorneys for Defendants  
16 UBER TECHNOLOGIES, INC.  
and OTTOMOTTO LLC

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 WAYMO LLC,

Case No. 3:17-cv-00939-WHA

21 Plaintiff,

**DECLARATION OF ERIC A. TATE IN  
SUPPORT OF DEFENDANTS UBER  
TECHNOLOGIES, INC. AND  
OTTOMOTTO LLC'S OPPOSITION TO  
WAYMO'S MOTION TO COMPEL  
STROZ-RELATED DISCOVERY**

22 v.

23 UBER TECHNOLOGIES, INC.,  
OTTOMOTTO LLC; OTTO TRUCKING  
LLC,

25 Defendants.

26 Trial Date: December 4, 2017

1 I, Eric A. Tate, declare as follows:

2       1. I am a member of the bar of the State of California and a partner with Morrison &  
 3 Foerster LLP (“MoFo”), counsel of record for Defendants Uber Technologies, Inc. and Ottomotto  
 4 LLC in this action. I am admitted to practice before this Court. I am the co-chair of MoFo’s  
 5 Global Employment and Labor Group and regularly litigate employee mobility cases. I submit  
 6 this declaration in support of Defendants’ Opposition to Motion to Compel Stroz-Related  
 7 Discovery. I have personal knowledge of the facts stated herein and, if called as a witness, I  
 8 could and would testify competently as to these facts.

9       2. I was contacted in late January 2016 by in-house counsel for Uber Technologies,  
 10 Inc. (“Uber”), to provide legal advice regarding a potential corporate transaction. That  
 11 transaction turned out to be Uber’s acquisition of two target companies, Ottomotto LLC  
 12 (“Ottomotto”) and Otto Trucking LLC (“Otto Trucking”) (collectively referred to as “Otto”).

13       3. The Court is familiar with the engagement of Stroz Friedberg LLC (“Stroz”) to  
 14 conduct an investigation and prepare a report in connection with that acquisition. Accordingly,  
 15 this declaration does not set forth those background facts.

16       4. I was Stroz Friedberg’s primary contact for MoFo and for Uber in connection with  
 17 that engagement.

18       5. In August 2016 I received the final report prepared by Stroz Friedberg (the “Stroz  
 19 Report”) in my capacity as outside counsel for Uber. Prior to that, I never received any drafts of  
 20 the Stroz Report. To my knowledge, no one at Uber or MoFo received any drafts of the Stroz  
 21 Report.

22       6. As this Court is aware, MoFo previously represented Anthony Levandowski  
 23 personally in the two arbitration matters commenced by Google against Mr. Levandowski. As  
 24 part of our representation of Mr. Levandowski in those proceedings, Mr. Levandowski authorized  
 25 Stroz to release his materials in its possession to our firm to provide him with counsel and to  
 26 respond to discovery obligations. In March 2017, MoFo received some of these materials from  
 27 Stroz (not all of them) (“the MoFo Sliver”) and began review of them before Mr. Levandowski  
 28

1 retained separate counsel. We stopped the review very shortly after we started because of the  
2 change in counsel. These facts are also set forth in my declaration dated July 12, 2017.

3 I declare under penalty of perjury that the foregoing is true and correct. Executed this 17th  
4 day of October, 2017, in San Francisco, California.

5 /s/ Eric A. Tate  
6 Eric A. Tate

7

8

9

10 **ATTESTATION OF E-FILED SIGNATURE**

11 I, Arturo J. González, am the ECF User whose ID and password are being used to file this  
12 Declaration. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Eric A. Tate has  
13 concurred in this filing.

14 Dated: October 17, 2017

15 /s/ Arturo J. González  
Arturo J. González

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28